

Application No.: 09/840,558
June 28, 2004 Amendment
Responding to March 26, 2004 Office Action

Remarks/Arguments

Claims 1-35 are in the application. Claims 1, 8, 10, 11, 20, 22, 23, 26, 27, 29, and 35 are in independent form. Claims 1-7, 10-13, 22, and 27 are allowed.

Claim 25 stands rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to provide an antecedent basis for the "electrostatic deflector." Amended claim 25 recites "an electrostatic deflector" instead of "the electrostatic deflector."

Claims 8, 14, 20, 21, 23, 24, 26, 29, and 32-35 stand rejected under 35 U.S.C. § 103(a) for obviousness over US Pat. No. 6,455,848 to Krijn et al. ("Krijn"). Claims 9, 15, 28, 30, and 31 stand rejected under 35 U.S.C. § 103(a) for obviousness over Krijn in view of secondary references.

The present application was filed April 23, 2001 and claims priority from 60/199,280, filed April 24, 2000. Krijn was filed December 15, 1999 and issued September 24, 2002, after the priority date of the present application. Krijn therefore qualifies as prior art under 35 U.S.C. § 102(e).

35 U.S.C. § 103(c) states that: "Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person."

The present application is owned by FEI Company. The subject matter of Krijn and the claimed invention were, at the time the invention was made, owned or subject to an obligation of assignment to the same person, that is, FEI Company. Krijn is therefore not available as prior art to the present application.

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Applicants respectfully request that the rejection be reconsidered and the application allowed.

Respectfully submitted,

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